

The Second Division consisted of the regular members and in addition Referee James C. McBrearty when award was rendered.

Parties to Dispute: ( System Federation No. 2, Railway Employees'  
( Department, A. F. of L. - C. I. O.  
( (Carmen)  
( Missouri Pacific Railroad Company

Dispute: Claim of Employees:

1. That the Missouri Pacific Railroad Company violated the controlling agreement, particularly Rule 120, when Carmen J. L. Wilcox, H. J. Pearl and A. J. Lewis, North Little Rock, Arkansas, were arbitrarily released before completing call for wrecking service May 6, 1975.
2. That accordingly, the Missouri Pacific Railroad Company be ordered to compensate Carmen A. J. Lewis and H. J. Pearl in the amount of fifteen hours (15') each at the punitive rate and compensate Carman J. L. Wilcox in the amount of twenty-one hours (21') at punitive rate, May 6, 1975.

Findings:

The Second Division of the Adjustment Board, upon the whole record and all the evidence, finds that:

The carrier or carriers and the employee or employees involved in this dispute are respectively carrier and employee within the meaning of the Railway Labor Act as approved June 21, 1934.

This Division of the Adjustment Board has jurisdiction over the dispute involved herein.

Parties to said dispute waived right of appearance at hearing thereon.

Claimants were called for wrecking service due to a regularly assigned wrecking crew member being unavailable. The wrecking outfit and crew came back to home point enroute to another derailment, at which time Claimants were released, and the regularly assigned wrecking crew members were called to accompany the outfit. Claimants allege they should have been permitted to continue with the outfit.

Rule 120 reads:

"When wrecking crews are called for wrecks or derailments outside of yard limits, a sufficient number of the regularly assigned crew will accompany the outfit. For wrecks or derailments within yard limits, a sufficient number of carmen

"and helpers on duty will be used to perform the work. If a sufficient number of carmen and helpers are not on duty, a sufficient number of the wrecking crew will be called, if available." (Emphasis added)

Under Rule 120, regularly assigned wrecking crew members, have contractual rights to wrecking service when the outfit is called, if they are available, to the exclusion of other Carmen.

Claimants were properly paid for service performed, and have failed to show where the Agreement was violated. Therefore, we must deny the claim.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Second Division

Attest: Executive Secretary  
National Railroad Adjustment Board

By

  
Rosemarie Brasch - Administrative Assistant

Dated at Chicago, Illinois, this 9th day of December, 1977.